



Attorney's Docket No.:41260.008

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:

Stanley C. Antosh and
Anthony J. Meduri

Group Art Unit No. 1611

Examiner:
Joseph S. Kudla

Telephone: (571) 270-3288

Serial No.: 10/711,255

Filed: 09/04/2004

For the Invention of:

THE USE OF METHYL PYRUVATE OR
METHYL PYRUVIC ACID FOR THE
TREATMENT OF DISEASES OF THE
NERVOUS SYSTEM AND FOR PROTECTING
A HUMAN CENTRAL NERVOUS SYSTEM
AGAINST NEURONAL DEGENERATION
CAUSED BY DEFECTIVE INTRACELLULAR
ENERGY PRODUCTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

1. The Office Action on the Application Serial No. 10/711,255 (hereafter the "255 Application") mailed on January 17, 2007 is hereby acknowledged. This Response To Restriction Requirement is being mailed by Express Mail, Mail Label No. EM 113126325 US, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on February 11, 2008. The shortened statutory period of one (1) month time period for response to this Office Action expired on February 17, 2008. Concurrently with the filing of this Response, Applicants are requesting a five month extension

1 of time and therefore, the deadline to file the response is July 17, 2008. Therefore, this Response
2 to Restriction Requirement is timely filed. In the event that the Commissioner for Patents should
3 determine that any extension of time is required for this Response to Restriction Requirement to
4 be timely filed and an appropriate fee is due for that extension of time, then the Commissioner
5 for Patents is hereby authorized to charge Deposit Account Number 18-2222 for such
6 appropriate fee.

7 2. The Examiner has stated that Group I relates to Claims 1-2 and 5-44, drawn to a
8 method of increasing neuronal energy production in a human with the use of methyl pyruvate or
9 methyl pyruvic acid. The Examiner has stated that Group II relates to Claims 3-4, drawn to a
10 method fo increasing methyl pyruvate levels or methyl pyruvic acid levels or said effects.
11 Applicant hereby elects Group I, Claims 1-2 and 5-44. This election is made with traverse.

12 3. With respect to the species election, the Examiner states that Claims 1-2 and 5-44
13 contain patentably distinct species of disorders. The Applicants hereby elect Alzheimer's as the
14 disorder for examination. This election is made with traverse as it is believed that it is unfair to
15 single out this one disease among the others. However, the election has been made.
16 Specifically, the claims that relate to Alzheimer's disease are Claim 21 and Claim 35.

17 4. In Paragraph 5 of the Office Action the Examiner states that if Applicants elect
18 Group I, the Applicants are required to elect a creatine analog in the instant specification.
19 Claims 39-40 contain patentably distinct species. The compounds depicted in the claims possess
20 different and distinct functionalities. In accordance with the Examiner's directives, the
21 Applicants elect (3) which are creatine analogs which can act as reversible or irreversible
22 inhibitors of creatine kinase. This election is made with traverse.

23 5. The Applicants have not specifically cancelled the non-elected claims because the
24 election is made with traverse. The Applicants believe that they are not patentably distinct. In
25 the event the Examiner should find that there are no generic claims for which all claims would be
26 allowable, then in the next Office Action, the Applicants will cancel the claims that are not
27 elected. Therefore, specifically, the Applicants are electing Claims 1-2 and 5-44 from Group I
28 and also specifically electing the claims that relate to Alzheimer's disease which are Claim 21

1 and Claim 35 and are also electing the specific sub-species in Claims 39-40. Therefore, all of
2 the Examiner's directives have been complied with. Therefore, issuance of an Office Action on
3 the merits is now respectfully solicited.

4
5 Respectfully submitted,

6 Date: July 11, 2008

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12 I hereby certify that this correspondence
13 is being deposited with the United States
14 Postal Service as Express Mail in an envelope
15 addressed to: Commissioner for Patents,
16 P.O. Box 1450, Alexandria, VA 22313-1450 7/11/08

17 Date of Deposit
18 Express Mail No. EM 113 126325US

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19 Signature and Date

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